

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 198

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

AN ACT

RELATING TO TAXATION; PROVIDING FOR LOCAL OPTION COMPENSATING
TAXES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-1-3 NMSA 1978 (being Laws 1965,
Chapter 248, Section 3, as amended) is amended to read:

"7-1-3. DEFINITIONS.--Unless the context clearly
indicates a different meaning, the definitions of words and
phrases as they are stated in this section are to be used, and
whenever in the Tax Administration Act these words and phrases
appear, the singular includes the plural and the plural
includes the singular:

A. "automated clearinghouse transaction" means an
electronic credit or debit transmitted through an automated
clearinghouse payable to the state treasurer and deposited with

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1 the fiscal agent of New Mexico;

2 B. "department" means the taxation and revenue
3 department, the secretary or any employee of the department
4 exercising authority lawfully delegated to that employee by the
5 secretary;

6 C. "electronic payment" means a payment made by
7 automated clearinghouse deposit, any funds wire transfer system
8 or a credit card, debit card or electronic cash transaction
9 through the internet;

10 D. "employee of the department" means any employee
11 of the department, including the secretary, or any person
12 acting as agent or authorized to represent or perform services
13 for the department in any capacity with respect to any law made
14 subject to administration and enforcement under the provisions
15 of the Tax Administration Act;

16 E. "financial institution" means any state or
17 federally chartered, federally insured depository institution;

18 F. "Internal Revenue Code" means the Internal
19 Revenue Code of 1986, as amended;

20 G. "levy" means the lawful power, hereby invested
21 in the secretary, to take into possession or to require the
22 present or future surrender to the secretary or the secretary's
23 delegate of any property or rights to property belonging to a
24 delinquent taxpayer;

25 H. "local option compensating tax" means a tax

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1 authorized to be imposed by a county or municipality upon the
2 taxpayer's use of property, as the term "use" is defined in the
3 Gross Receipts and Compensating Tax Act, and required to be
4 collected by the department at the same time and in the same
5 manner as the compensating tax; "local option compensating tax"
6 includes the compensating taxes imposed pursuant to the
7 Municipal Local Option Gross Receipts Taxes Act, Supplemental
8 Municipal Gross Receipts Tax Act, County Local Option Gross
9 Receipts Taxes Act, Local Hospital Gross Receipts Tax Act,
10 County Correctional Facility Gross Receipts Tax Act and such
11 other acts as may be enacted authorizing counties or
12 municipalities to impose taxes on use of property, which taxes
13 are to be collected by the department in the same time and in
14 the same manner as it collects the compensating tax;

15 ~~[H.]~~ I. "local option gross receipts tax" means a
16 tax authorized to be imposed by a county or municipality upon
17 the taxpayer's gross receipts, as that term is defined in the
18 Gross Receipts and Compensating Tax Act, and required to be
19 collected by the department at the same time and in the same
20 manner as the gross receipts tax; "local option gross receipts
21 tax" includes the taxes imposed pursuant to the Municipal Local
22 Option Gross Receipts Taxes Act, Supplemental Municipal Gross
23 Receipts Tax Act, County Local Option Gross Receipts Taxes Act,
24 Local Hospital Gross Receipts Tax Act, County Correctional
25 Facility Gross Receipts Tax Act and such other acts as may be

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1 enacted authorizing counties or municipalities to impose taxes
2 on gross receipts, which taxes are to be collected by the
3 department in the same time and in the same manner as it
4 collects the gross receipts tax;

5 ~~[F.]~~ J. "managed audit" means a review and analysis
6 conducted by a taxpayer under an agreement with the department
7 to determine the taxpayer's compliance with a tax administered
8 pursuant to the Tax Administration Act and the presentation of
9 the results to the department for assessment of tax found to be
10 due;

11 ~~[J.]~~ K. "net receipts" means the total amount of
12 money paid by taxpayers to the department in a month pursuant
13 to a tax or tax act less any refunds disbursed in that month
14 with respect to that tax or tax act;

15 ~~[K.]~~ L. "overpayment" means an amount paid,
16 pursuant to any law subject to administration and enforcement
17 under the provisions of the Tax Administration Act, by a person
18 to the department or withheld from the person in excess of tax
19 due from the person to the state at the time of the payment or
20 at the time the amount withheld is credited against tax due;

21 ~~[L.]~~ M. "paid" includes the term "paid over";

22 ~~[M.]~~ N. "pay" includes the term "pay over";

23 ~~[N.]~~ O. "payment" includes the term "payment over";

24 ~~[O.]~~ P. "person" means any individual, estate,
25 trust, receiver, cooperative association, club, corporation,

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1 company, firm, partnership, limited liability company, limited
2 liability partnership, joint venture, syndicate, other
3 association or gas, water or electric utility owned or operated
4 by a county or municipality; "person" also means, to the extent
5 permitted by law, a federal, state or other governmental unit
6 or subdivision, or an agency, department or instrumentality
7 thereof; and "person", as used in Sections 7-1-72 through
8 7-1-74 NMSA 1978, also includes an officer or employee of a
9 corporation, a member or employee of a partnership or any
10 individual who, as such, is under a duty to perform any act in
11 respect of which a violation occurs;

12 [P.] Q. "property" means property or rights to
13 property;

14 [Q.] R. "property or rights to property" means any
15 tangible property, real or personal, or any intangible property
16 of a taxpayer;

17 [R.] S. "secretary" means the secretary of taxation
18 and revenue and, except for purposes of Subsection B of Section
19 7-1-4 NMSA 1978 and Subsection E of Section 7-1-24 NMSA 1978,
20 also includes the deputy secretary or a division director or
21 deputy division director delegated by the secretary;

22 [S.] T. "secretary or the secretary's delegate"
23 means the secretary or any employee of the department
24 exercising authority lawfully delegated to that employee by the
25 secretary;

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1 ~~[F.]~~ U. "security" means money, property or rights
2 to property or a surety bond;

3 ~~[U.]~~ V. "state" means any state of the United
4 States, the District of Columbia, the commonwealth of Puerto
5 Rico and any territory or possession of the United States;

6 ~~[V.]~~ W. "tax" means the total amount of each tax
7 imposed and required to be paid, withheld and paid or collected
8 and paid under provision of any law made subject to
9 administration and enforcement according to the provisions of
10 the Tax Administration Act and, unless the context otherwise
11 requires, includes the amount of any interest or civil penalty
12 relating thereto; "tax" also means any amount of any abatement
13 of tax made or any credit, rebate or refund paid or credited by
14 the department under any law subject to administration and
15 enforcement under the provisions of the Tax Administration Act
16 to any person contrary to law and includes, unless the context
17 requires otherwise, the amount of any interest or civil penalty
18 relating thereto;

19 ~~[W.]~~ X. "taxpayer" means a person liable for
20 payment of any tax, a person responsible for withholding and
21 payment or for collection and payment of any tax or a person to
22 whom an assessment has been made, if the assessment remains
23 unabated or the amount thereof has not been paid; and

24 ~~[X.]~~ Y. "tax return preparer" means a person who
25 prepares for others for compensation or who employs one or more

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1 persons to prepare for others for compensation any return of
 2 income tax, a substantial portion of any return of income tax,
 3 any claim for refund with respect to income tax or a
 4 substantial portion of any claim for refund with respect to
 5 income tax; provided that a person shall not be a "tax return
 6 preparer" merely because such person:

7 (1) furnishes typing, reproducing or other
 8 mechanical assistance;

9 (2) is an employee who prepares an income tax
 10 return or claim for refund with respect to an income tax return
 11 of the employer, or of an officer or employee of the employer,
 12 by whom the person is regularly and continuously employed; or

13 (3) prepares as a trustee or other fiduciary
 14 an income tax return or claim for refund with respect to income
 15 tax for any person."

16 Section 2. Section 7-1-6.12 NMSA 1978 (being Laws 1983,
 17 Chapter 211, Section 17, as amended) is amended to read:

18 "7-1-6.12. TRANSFER--REVENUES FROM MUNICIPAL LOCAL OPTION
 19 GROSS RECEIPTS TAXES--REVENUES FROM LOCAL OPTION COMPENSATING
 20 TAXES.--

21 A. A transfer pursuant to Section 7-1-6.1 NMSA 1978
 22 shall be made to each municipality for which the department is
 23 collecting a local option gross receipts tax imposed by that
 24 municipality in an amount, subject to any increase or decrease
 25 made pursuant to Section 7-1-6.15 NMSA 1978, equal to the net

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1 receipts attributable to the local option gross receipts tax
 2 imposed by that municipality, less any deduction for
 3 administrative cost [~~determined and made by the department~~
 4 ~~pursuant to the provisions of the act authorizing imposition by~~
 5 ~~that municipality of the local option gross receipts tax and~~
 6 ~~any additional administrative fee withheld pursuant to~~
 7 ~~Subsection C of Section 1 of this 1997 act]~~ pursuant to Section
 8 7-1-6.41 NMSA 1978 and less any disbursements for tax credits,
 9 refunds and payment of interest applicable to the local option
 10 gross receipts tax.

11 B. A transfer pursuant to Section 7-1-6.1 NMSA 1978
 12 shall be made to each municipality for which the department is
 13 collecting a local option compensating tax imposed by that
 14 municipality in an amount, subject to any increase or decrease
 15 pursuant to Section 7-1-6.15 NMSA 1978, equal to the net
 16 receipts attributable to the local option compensating tax
 17 imposed by that municipality less any deduction for
 18 administrative cost pursuant to Section 7-1-6.41 NMSA 1978 and
 19 less any disbursements for tax credits, refunds and payment of
 20 interest applicable to the local option compensating tax."

21 Section 3. Section 7-1-6.13 NMSA 1978 (being Laws 1983,
 22 Chapter 211, Section 18, as amended) is amended to read:

23 "7-1-6.13. TRANSFER--REVENUES FROM COUNTY LOCAL OPTION
 24 GROSS RECEIPTS TAXES--REVENUES FROM COUNTY LOCAL OPTION
 25 COMPENSATING TAXES.--

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underscored material = new
 [bracketed material] = delete

1 A. A transfer pursuant to Section 7-1-6.1 NMSA 1978
 2 shall be made to each county for which the department is
 3 collecting a local option gross receipts tax imposed by that
 4 county in an amount, subject to any increase or decrease made
 5 pursuant to Section 7-1-6.15 NMSA 1978, equal to the net
 6 receipts attributable to the local option gross receipts tax
 7 imposed by that county, less any deduction for administrative
 8 cost ~~[determined and made by the department pursuant to the~~
 9 ~~provisions of the act authorizing imposition by that county of~~
 10 ~~the local option gross receipts tax and any additional~~
 11 ~~administrative fee withheld pursuant to Subsection C of]~~
 12 pursuant to Section 7-1-6.41 NMSA 1978 and less any
 13 disbursements for tax credits, refunds and payment of interest
 14 applicable to the local option gross receipts tax.

15 B. A transfer pursuant to Section 7-1-6.1 NMSA 1978
 16 shall be made to each county for which the department is
 17 collecting a local option compensating tax imposed by that
 18 county in an amount, subject to any increase or decrease made
 19 pursuant to Section 7-1-6.15 NMSA 1978, equal to the net
 20 receipts attributable to the local option compensating tax
 21 imposed by that county less any deduction for administrative
 22 cost pursuant to Section 7-1-6.41 NMSA 1978 and less any
 23 disbursements for tax credits, refunds and payment of interest
 24 applicable to the local option compensating tax."

25 Section 4. Section 7-1-6.15 NMSA 1978 (being Laws 1983,

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1 Chapter 211, Section 20, as amended) is amended to read:

2 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO
3 MUNICIPALITIES OR COUNTIES.--

4 A. The provisions of this section apply to:

5 (1) any distribution to a municipality of
6 gross receipts taxes pursuant to Section 7-1-6.4 NMSA 1978 or
7 of interstate telecommunications gross receipts tax pursuant to
8 Section 7-1-6.36 NMSA 1978;

9 (2) any transfer to a municipality with
10 respect to any local option gross receipts tax or local option
11 compensating tax imposed by that municipality;

12 (3) any transfer to a county with respect to
13 any local option gross receipts tax or local option
14 compensating tax imposed by that county;

15 (4) any distribution to a county pursuant to
16 Section 7-1-6.16 NMSA 1978;

17 (5) any distribution to a municipality or a
18 county of gasoline taxes pursuant to Section 7-1-6.9 NMSA 1978;

19 (6) any transfer to a county with respect to
20 any tax imposed in accordance with the Local Liquor Excise Tax
21 Act;

22 (7) any distribution to a municipality or a
23 county of cigarette taxes pursuant to Sections 7-1-6.11,
24 7-12-15 and 7-12-16 NMSA 1978;

25 (8) any distribution to a county from the

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1 county government road fund pursuant to Section 7-1-6.26 NMSA
2 1978;

3 (9) any distribution to a municipality of
4 gasoline taxes pursuant to Section 7-1-6.27 NMSA 1978; and

5 (10) any distribution to a municipality,
6 county, school district or special district of oil and gas ad
7 valorem production tax reduced as a result of a refund
8 requested in December 1998 with respect to production of carbon
9 dioxide.

10 B. If the secretary determines that any prior
11 distribution or transfer to a political subdivision was
12 erroneous, the secretary shall increase or decrease the next
13 distribution or transfer amount for that political subdivision
14 after the determination, except as provided in Subsection C, D
15 or E of this section, by the amount necessary to correct the
16 error. Subject to the provisions of Subsection E of this
17 section, the secretary shall notify the political subdivision
18 of the amount of each increase or decrease.

19 C. No decrease shall be made to current or future
20 distributions or transfers to a political subdivision for any
21 excess distribution or transfer made to that political
22 subdivision more than one year prior to the calendar year in
23 which the determination of the secretary was made.

24 D. The secretary, in lieu of recovery from the next
25 distribution or transfer amount, may recover an excess

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1 distribution or transfer of one hundred dollars (\$100) or more
2 to the political subdivision in installments from current and
3 future distributions or transfers to that political subdivision
4 pursuant to an agreement with the officials of the political
5 subdivision whenever the amount of the distribution or transfer
6 decrease for the political subdivision exceeds ten percent of
7 the average distribution or transfer amount for that political
8 subdivision for the twelve months preceding the month in which
9 the secretary's determination is made; provided that for the
10 purposes of this subsection, the "average distribution or
11 transfer amount" shall be the arithmetic mean of the
12 distribution or transfer amounts within the twelve months
13 immediately preceding the month in which the determination is
14 made.

15 E. Except for the provisions of this section, if
16 the amount by which a distribution or transfer would be
17 adjusted pursuant to Subsection B of this section is one
18 hundred dollars (\$100) or less, no adjustment or notice need be
19 made.

20 F. The secretary is authorized to decrease a
21 distribution to a municipality or county upon being directed
22 to do so by the secretary of finance and administration
23 pursuant to the State Aid Intercept Act or to redirect a
24 distribution to the New Mexico finance authority pursuant to
25 an ordinance or a resolution passed by the county or

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1 municipality and a written agreement of the municipality or
 2 county and the New Mexico finance authority. Upon direction
 3 to decrease a distribution or notice to redirect a
 4 distribution to a municipality or county, the secretary shall
 5 decrease or redirect the next designated distribution, and
 6 succeeding distributions as necessary, by the amount of the
 7 state distributions intercept authorized by the secretary of
 8 finance and administration pursuant to the State Aid
 9 Intercept Act or by the amount of the state distribution
 10 intercept authorized pursuant to an ordinance or a resolution
 11 passed by the county or municipality and a written agreement
 12 with the New Mexico finance authority. The secretary shall
 13 transfer the state distributions intercept amount to the
 14 municipal or county treasurer or other person designated by
 15 the secretary of finance and administration or to the New
 16 Mexico finance authority pursuant to written agreement to pay
 17 the debt service to avoid default on qualified local revenue
 18 bonds or meet other local revenue bond, loan or other debt
 19 obligations of the municipality or county to the New Mexico
 20 finance authority."

21 Section 5. Section 7-1-6.41 NMSA 1978 (being Laws 1997,
 22 Chapter 125, Section 1) is amended to read:

23 "7-1-6.41. ADMINISTRATIVE FEE IMPOSED--APPROPRIATION.--

24 A. The [~~taxation and revenue~~] department is
 25 directed to withhold an administrative fee of three percent

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1 of the net amount to be distributed under the provisions of:

- 2 (1) Section 7-1-6.32 NMSA 1978;
- 3 (2) Section 66-12-20 NMSA 1978; and
- 4 (3) Section 74-1-13 NMSA 1978.

5 B. The administrative fee to be withheld pursuant
6 to Subsection A of this section shall be withheld on
7 distributions made on or after July 1, 1997 and shall
8 continue until the earlier of December 31, 2006 or the date
9 on which the New Mexico finance authority certifies to the
10 [~~taxation and revenue~~] department that all obligations for
11 bonds issued pursuant to [~~Section 12 of this 1997 act~~] Laws
12 1997, Chapter 125, Section 12 have been fully discharged and
13 directs the department to cease distributing money to the
14 authority pursuant to this section.

15 [~~C. The taxation and revenue department is~~
16 ~~directed to withhold an additional administrative fee at the~~
17 ~~following percentage of the net amount to be distributed~~
18 ~~pursuant to the following provisions of law:~~

- 19 (1) ~~two percent of the net amount to be~~
20 ~~distributed pursuant to Section 7-1-6.12 NMSA 1978; and~~
- 21 (2) ~~six-tenths of one percent of the net~~
22 ~~amount to be distributed pursuant to Section 7-1-6.13 NMSA~~
23 ~~1978.~~

24 D. ~~The administrative fee to be withheld under~~
25 ~~Subsection C of this section shall be withheld on~~

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1 ~~distributions made on or after July 1, 1997 and shall~~
2 ~~continue until the earlier of July 1, 2000 or the date on~~
3 ~~which the New Mexico finance authority certifies to the~~
4 ~~taxation and revenue department that all obligations for~~
5 ~~bonds issued pursuant to Section 12 of this 1997 act have~~
6 ~~been fully discharged and directs the department to cease~~
7 ~~distributing money to the authority pursuant to this section.~~

8 ~~E.]~~ C. The administrative fee to be withheld by
9 the [~~taxation and revenue~~] department under [~~Section~~]
10 Sections 7-1-6.12 and 7-1-6.13 NMSA 1978 shall be set at
11 three percent of the net amount to be distributed pursuant to
12 the provisions of those sections.

13 ~~[F.]~~ D. The administrative fee to be withheld
14 under Subsection [~~E]~~ C of this section shall be withheld on
15 distributions made on or after July 1, 2000 and shall
16 continue until the earlier of December 31, 2006 or the date
17 on which the New Mexico finance authority certifies to the
18 [~~taxation and revenue~~] department that all obligations for
19 bonds issued pursuant to [~~Section 12 of this 1997 act~~] Laws
20 1997, Chapter 125, Section 12 have been fully discharged and
21 directs the department to cease distributing money to the
22 authority pursuant to this section. After the department has
23 been directed by the authority to cease distributing money to
24 the authority pursuant to this section, the administrative
25 fee shall be remitted to the state treasurer for deposit in

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1 the state general fund each month.

2 ~~[G.]~~ E. The administrative fee shall be
3 distributed monthly to the New Mexico finance authority to be
4 pledged irrevocably for the payment of principal, interest
5 and any expenses or obligations related to the bonds issued
6 by the authority to finance the taxation and revenue
7 information management systems project."

8 Section 6. A new section of the Tax Administration Act
9 is enacted to read:

10 "[NEW MATERIAL] LOCATION OF USE.--

11 A. For compensating tax and local option
12 compensating tax purposes, use of property occurs in the
13 jurisdiction in which:

14 (1) the buyer's place of business is located
15 if the buyer is engaging in business in New Mexico and uses
16 the property in furtherance of that business;

17 (2) the buyer's principal office is located
18 if the buyer is the state or a local government or an agency
19 or instrumentality of the state or a local government; or

20 (3) the buyer's residence is located if the
21 buyer is not engaging in business in New Mexico or does not
22 use the property in furtherance of business.

23 B. The department shall promulgate regulations to
24 determine where use will be attributed when the buyer has
25 more than one business location or residence in New Mexico."

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1 Section 7. Section 7-9-7.1 NMSA 1978 (being Laws 1993,
2 Chapter 45, Section 1, as amended) is amended to read:

3 "7-9-7.1. DEPARTMENT BARRED FROM TAKING COLLECTION
4 ACTIONS WITH RESPECT TO CERTAIN COMPENSATING TAX
5 LIABILITIES.--

6 A. The department shall take no action to enforce
7 collection of compensating tax or any local option
8 compensating tax due on purchases made by an individual if:

9 (1) the property is used only for
10 nonbusiness purposes;

11 (2) the property is not a manufactured home;
12 and

13 (3) the individual is not an agent for
14 collection of compensating tax pursuant to Section 7-9-10
15 NMSA 1978.

16 B. The prohibition in Subsection A of this
17 section does not prevent the department from enforcing
18 collection of compensating tax or any local option
19 compensating tax on purchases from persons who are not
20 individuals, who are agents for collection pursuant to
21 Section 7-9-10 NMSA 1978 or who use the property in the
22 course of engaging in business in New Mexico or from
23 enforcing collection of compensating tax or any local option
24 compensating tax due on purchase of manufactured homes."

25 Section 8. Section 7-9-9 NMSA 1978 (being Laws 1966,

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1 Chapter 47, Section 9, as amended) is amended to read:

2 "7-9-9. LIABILITY OF USER FOR PAYMENT OF COMPENSATING
3 TAX AND LOCAL OPTION COMPENSATING TAX.--Any person in New
4 Mexico using property on the value of which compensating tax
5 and local option compensating tax is payable but has not been
6 paid is liable to the state for payment of the compensating
7 tax and applicable local option compensating tax, but this
8 liability is discharged if the buyer has paid the
9 compensating tax and applicable local option compensating tax
10 to the seller for payment over to the department."

11 Section 9. Section 7-19-12 NMSA 1978 (being Laws 1979,
12 Chapter 397, Section 3, as amended) is amended to read:

13 "7-19-12. AUTHORIZATION TO IMPOSE SUPPLEMENTAL
14 MUNICIPAL GROSS RECEIPTS TAX AND SUPPLEMENTAL MUNICIPAL
15 COMPENSATING TAX--AUTHORIZATION FOR ISSUANCE OF SUPPLEMENTAL
16 MUNICIPAL GROSS RECEIPTS BONDS--ELECTION REQUIRED.--

17 A. The majority of the members elected to the
18 governing body of a municipality may enact an ordinance
19 imposing an excise tax on any person engaging in business in
20 the municipality for the privilege of engaging in business in
21 the municipality. This tax is to be referred to as the
22 "supplemental municipal gross receipts tax". The rate of the
23 tax shall not exceed one percent of the gross receipts of the
24 person engaging in business and shall be imposed in one-
25 fourth percent increments if less than one percent.

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1 B. An ordinance imposing a tax authorized by
 2 Subsection A of this section shall also impose a tax for the
 3 privilege of using property in the municipality if the use or
 4 service is subject to the compensating tax. This tax shall
 5 be referred to as the "supplemental municipal compensating
 6 tax". The rate of the tax imposed pursuant to this
 7 subsection shall be the same as the rate of tax imposed
 8 pursuant to Subsection A of this section. If, on July 1,
 9 2007, a municipality has in effect any amount of supplemental
 10 municipal gross receipts tax, a supplemental municipal
 11 compensating tax is hereby imposed at the same rate,
 12 effective July 1, 2007.

13 [~~B.~~] C. The governing body of a municipality
 14 enacting an ordinance imposing the [~~tax~~] taxes authorized in
 15 [~~Subsection A~~] Subsections A and B of this section shall
 16 submit the question of imposing [~~such tax~~] the taxes and the
 17 question of the issuance of supplemental municipal gross
 18 receipts bonds in an amount not to exceed nine million
 19 dollars (\$9,000,000), for which the revenue from the
 20 supplemental municipal gross receipts tax and supplemental
 21 municipal compensating tax is dedicated, to the qualified
 22 electors of the municipality at a regular or special
 23 election.

24 [~~C.~~] D. The questions referred to in Subsection
 25 [~~B~~] C of this section shall be submitted to a vote of the

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1 qualified electors of the municipality as two separate ballot
2 questions, which shall be substantially in the following
3 form:

4 (1) "Shall the municipality be authorized to
5 issue supplemental municipal gross receipts bonds in an
6 amount of not exceeding _____ dollars for the
7 purpose of constructing and equipping and otherwise acquiring
8 a municipal water supply system?

9 For _____ Against _____"; and

10 (2) "Shall the municipality impose an excise
11 tax for the privilege of engaging in business in the
12 municipality, which shall be known as the "supplemental
13 municipal gross receipts tax", and an excise tax on the use
14 of property in the municipality, which shall be known as the
15 "supplemental municipal compensating tax", both of which
16 shall be imposed at a rate of _____ percent [~~of the~~
17 ~~gross receipts of the person engaging in business~~], the
18 proceeds of which are dedicated to the payment of
19 supplemental municipal gross receipts bonds?

20 For _____ Against _____".

21 [~~D.~~] E. Only those voters who are registered
22 electors who reside within the municipality shall be
23 permitted to vote on these two questions. The procedures for
24 conducting the election shall be substantially the same as
25 the applicable provisions in Sections 3-30-1, 3-30-6 and

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underscored material = new
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1 3-30-7 NMSA 1978 relating to municipal debt.

2 ~~[E.]~~ F. If at an election called pursuant to this
3 section a majority of the voters voting on each of the two
4 questions vote in the affirmative on each [~~such~~] question,
5 [~~then~~] the ordinance imposing the supplemental municipal
6 gross receipts tax and supplemental municipal compensating
7 tax shall be approved. If at such election a majority of the
8 voters voting on such questions [~~fail~~] fails to approve any
9 of the questions, [~~then~~] the ordinance imposing the [~~tax~~]
10 taxes shall be disapproved and the questions required to be
11 submitted by Subsection [B] C of this section shall not be
12 submitted to the voters for a period of one year from the
13 date of the election.

14 ~~[F.]~~ G. Any ordinance enacted under the
15 provisions of this section shall include an effective date of
16 either July 1 or January 1, whichever date occurs first after
17 the expiration of at least [~~five~~] three months from the date
18 of the election. A certified copy of any ordinance imposing
19 a supplemental municipal gross receipts tax and supplemental
20 municipal compensating tax shall be mailed to the [~~division~~]
21 department within five days after the ordinance is adopted by
22 the approval by the electorate. Any ordinance repealing the
23 imposition of a tax under the provisions of the Supplemental
24 Municipal Gross Receipts Tax Act shall become effective on
25 either July 1 or January 1, after the expiration of at least

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1 [five] three months from the date the ordinance is repealed
2 by the governing body.

3 [G.] H. Nothing in this section is intended to or
4 does alter the effectiveness or validity of any actions taken
5 in accordance with Subsection G of Section 80 of Chapter 20
6 of Laws 1986."

7 Section 10. Section 7-19-13 NMSA 1978 (being Laws 1979,
8 Chapter 397, Section 4) is amended to read:

9 "7-19-13. ORDINANCE [~~MUST~~] SHALL CONFORM TO CERTAIN
10 PROVISIONS OF THE GROSS RECEIPTS AND COMPENSATING TAX ACT AND
11 REQUIREMENTS OF THE [~~DIVISION~~] DEPARTMENT.--

12 A. Any ordinance imposing a supplemental
13 municipal gross receipts tax and supplemental municipal
14 compensating tax shall adopt by reference the same
15 definitions and the same provisions relating to exemptions
16 and deductions as are contained in the Gross Receipts and
17 Compensating Tax Act then in effect and as it may be amended
18 from time to time.

19 B. The governing body of any municipality
20 imposing or increasing the supplemental municipal gross
21 receipts tax [~~must~~] and supplemental municipal compensating
22 tax shall adopt the language of the model ordinance furnished
23 to the municipality by the [~~division~~] department for the
24 portion of the ordinance relating to the [~~tax~~] taxes."

25 Section 11. A new section of the Supplemental Municipal

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1 Gross Receipts Tax Act, Section 7-19-14.1 NMSA 1978, is
2 enacted to read:

3 "7-19-14.1. [NEW MATERIAL] EXEMPTION--SUPPLEMENTAL
4 MUNICIPAL COMPENSATING TAX.--

5 A. Exempted from supplemental municipal
6 compensating taxes is the use of any tangible personal
7 property that:

8 (1) is subject to depreciation for federal
9 income tax purposes; and

10 (2) at the time of acquisition or
11 introduction into New Mexico, could not be obtained from
12 sources within New Mexico.

13 B. The department, by regulation or instruction,
14 may prescribe one or more methods by which the user of the
15 property may certify that the property meets the conditions
16 of Paragraph (2) of Subsection A of this section."

17 Section 12. Section 7-19-15 NMSA 1978 (being Laws 1979,
18 Chapter 397, Section 6, as amended) is amended to read:

19 "7-19-15. COLLECTION BY DEPARTMENT--TRANSFER OF
20 PROCEEDS--DEDUCTIONS.--

21 A. The department shall collect the supplemental
22 municipal gross receipts tax in the same manner and at the
23 same time it collects the state gross receipts tax. The
24 department shall collect the supplemental municipal
25 compensating tax in the same manner and at the same time it

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1 collects the compensating tax.

2 B. The department shall withhold an
3 administrative fee pursuant to Section [~~1 of this 1997 act~~]
4 7-1-6.41 NMSA 1978. The department shall transfer to each
5 municipality for which it is collecting a supplemental
6 municipal gross receipts tax or supplemental municipal
7 compensating tax the amount of the tax collected less the
8 administrative fee withheld and less any disbursements for
9 tax credits, refunds and the payment of interest applicable
10 to the [~~supplemental municipal gross receipts~~] tax. Transfer
11 of the tax to a municipality shall be made within the month
12 following the month in which the tax is collected."

13 Section 13. Section 7-19-16 NMSA 1978 (being Laws 1979,
14 Chapter 397, Section 7) is amended to read:

15 "7-19-16. INTERPRETATION OF ACT--ADMINISTRATION AND
16 ENFORCEMENT OF [~~TAX~~] TAXES.--

17 A. The [~~division~~] department shall interpret the
18 provisions of the Supplemental Municipal Gross Receipts Tax
19 Act.

20 B. The [~~division~~] department shall administer and
21 enforce the collection of the supplemental municipal gross
22 receipts tax and the supplemental municipal compensating tax,
23 and the Tax Administration Act applies to the administration
24 and enforcement of the [~~tax~~] taxes."

25 Section 14. Section 7-19-18 NMSA 1978 (being Laws 1979,

1 Chapter 397, Section 9, as amended) is amended to read:

2 "7-19-18. SUPPLEMENTAL MUNICIPAL GROSS RECEIPTS TAX AND
3 SUPPLEMENTAL MUNICIPAL COMPENSATING TAX--USE OF PROCEEDS--
4 RESTRICTION.--

5 A. The proceeds from the supplemental municipal
6 gross receipts tax and supplemental municipal compensating
7 tax shall be deposited in a special improvement account of
8 the municipality and shall be used only for:

9 (1) the payment of the principal of,
10 interest on, any prior redemption premiums due in connection
11 with and other expenses related to the supplemental municipal
12 gross receipts bonds issued pursuant to the Supplemental
13 Municipal Gross Receipts Tax Act;

14 (2) the funding of any reserves and other
15 accounts in connection with such bonds;

16 (3) refunding bonds; and

17 (4) to the extent not needed for those
18 purposes, the improvement of the municipality's water system.

19 B. When any issue of supplemental municipal gross
20 receipts bonds is fully paid, the supplemental municipal
21 gross receipts tax and supplemental municipal compensating
22 tax shall cease to be imposed for that issue, but may
23 continue to be imposed for bonds enacted and approved
24 pursuant to Section 7-19-12 NMSA 1978 and thereafter issued,
25 or for refunding bonds issued pursuant to Section [~~4 of this~~

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underscored material = new
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1 ~~1997-act]~~ 7-19-17.1 NMSA 1978. Any money remaining in a
2 special improvement account after the obligations for
3 supplemental municipal gross receipts bonds and refunding
4 bonds are fully paid may be transferred to any other fund of
5 the municipality."

6 Section 15. A new section of the Municipal Local Option
7 Gross Receipts Taxes Act is enacted to read:

8 "[NEW MATERIAL] MATCHING LOCAL OPTION COMPENSATING
9 TAX.--

10 A. An ordinance imposing, increasing or repealing
11 a local option gross receipts tax authorized by the Municipal
12 Local Option Gross Receipts Taxes Act shall also impose,
13 increase or repeal a tax for the privilege of using property
14 in the municipality if the use of the property is subject to
15 the compensating tax. The rate of the municipal tax on use
16 imposed, increased or repealed shall be the same as the rate
17 of the local option gross receipts tax imposed, increased or
18 repealed. For an election for approval of the imposition,
19 increase or repeal of a tax authorized to be imposed pursuant
20 to the Municipal Local Option Gross Receipts Taxes Act, the
21 ballot shall clearly indicate that the question concerns the
22 simultaneous imposition, increase or repeal of both a
23 municipal local option gross receipts tax and a municipal
24 local option compensating tax.

25 B. If, on July 1, 2007, a municipality has in

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1 effect a local option gross receipts tax authorized by the
 2 Municipal Local Option Gross Receipts Taxes Act, a municipal
 3 tax on use is hereby imposed at the same rate, effective July
 4 1, 2007, except that the rate of the municipal tax on use
 5 matching the municipal gross receipts tax shall be equal to
 6 the rate of the municipal gross receipts tax for the
 7 municipality.

8 C. The municipal taxes on use authorized or
 9 imposed by this section may be referred to generally as
 10 "municipal local option compensating taxes". Each tax may be
 11 referred to individually by reference to the local option
 12 gross receipts tax with which it is associated."

13 Section 16. A new section of the Municipal Local Option
 14 Gross Receipts Taxes Act, Section 7-19D-5.1 NMSA 1978, is
 15 enacted to read:

16 "7-19D-5.1. [NEW MATERIAL] EXEMPTION--MUNICIPAL LOCAL
 17 OPTION COMPENSATING TAXES.--

18 A. Exempted from municipal local option
 19 compensating taxes is the use of any tangible personal
 20 property that:

21 (1) is subject to depreciation for federal
 22 income tax purposes; and

23 (2) at the time of acquisition or
 24 introduction into New Mexico, could not be obtained from
 25 sources within New Mexico.

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1 B. The department, by regulation or instruction,
2 may prescribe one or more methods by which the user of the
3 property may certify that the property meets the conditions
4 of Paragraph (2) of Subsection A of this section."

5 Section 17. Section 7-19D-7 NMSA 1978 (being Laws 1993,
6 Chapter 346, Section 7, as amended) is amended to read:

7 "7-19D-7. COLLECTION BY DEPARTMENT--TRANSFER OF
8 PROCEEDS--DEDUCTIONS.--

9 A. The department shall collect each local option
10 gross receipts tax imposed pursuant to the provisions of the
11 Municipal Local Option Gross Receipts Taxes Act in the same
12 manner and at the same time it collects the state gross
13 receipts tax. The department shall collect the municipal
14 local option compensating taxes imposed pursuant to the
15 provisions of the Municipal Local Option Gross Receipts Taxes
16 Act in the same manner and at the same time it collects the
17 compensating tax.

18 B. Except as provided in Subsection C of this
19 section, the department shall withhold an administrative fee
20 pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA 1978.
21 The department shall transfer to each municipality for which
22 it is collecting a tax pursuant to the provisions of the
23 Municipal Local Option Gross Receipts Taxes Act the amount of
24 each tax collected for that municipality, less the
25 administrative fee withheld and less any disbursements for

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1 tax credits, refunds and the payment of interest applicable
 2 to the tax. The transfer to the municipality shall be made
 3 within the month following the month in which the tax is
 4 collected.

5 C. With respect to the municipal gross receipts
 6 tax imposed by a municipality pursuant to Section 7-19D-9
 7 NMSA 1978, the department shall withhold the administrative
 8 fee pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA
 9 1978 only on that portion of the municipal gross receipts tax
 10 arising from a municipal gross receipts tax rate or municipal
 11 compensating tax rate in excess of one-half [~~of one~~]
 12 percent."

13 Section 18. A new section of the Local Hospital Gross
 14 Receipts Tax Act is enacted to read:

15 "[NEW MATERIAL] MATCHING LOCAL HOSPITAL COMPENSATING
 16 TAX.--Any ordinance imposing, increasing or repealing a local
 17 hospital gross receipts tax authorized by the Local Hospital
 18 Gross Receipts Tax Act shall also impose, increase or repeal
 19 a tax for the privilege of using property in the county if
 20 the use of the property is subject to the compensating tax.
 21 This tax may be referred to as the "local hospital
 22 compensating tax". The rate of the local hospital
 23 compensating tax imposed, increased or repealed shall be the
 24 same as the rate of the local hospital gross receipts tax
 25 imposed, increased or repealed. For an election for the

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1 approval of the imposition, increase or repeal of a tax
2 authorized to be imposed pursuant to the Local Hospital Gross
3 Receipts Tax Act, the ballot shall clearly indicate that the
4 question concerns the simultaneous imposition, increase or
5 repeal of both a municipal local option gross receipts tax
6 and a municipal local option compensating tax. If, on July
7 1, 2007, a county has in effect a local hospital gross
8 receipts tax, a local hospital compensating tax is hereby
9 imposed at the same rate, effective July 1, 2007."

10 Section 19. A new section of the Local Hospital Gross
11 Receipts Tax Act, Section 7-20C-5.1 NMSA 1978, is enacted to
12 read:

13 "7-20C-5.1. [NEW MATERIAL] EXEMPTION--LOCAL HOSPITAL
14 COMPENSATING TAX.--

15 A. Exempted from the local hospital compensating
16 tax is the use of any tangible personal property that:

17 (1) is subject to depreciation for federal
18 income tax purposes; and

19 (2) at the time of acquisition or
20 introduction into New Mexico, could not be obtained from
21 sources within New Mexico.

22 B. The department, by regulation or instruction,
23 may prescribe one or more methods by which the user of the
24 property may certify that the property meets the conditions
25 of Paragraph (2) of Subsection A of this section."

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1 Section 20. Section 7-20C-6 NMSA 1978 (being Laws 1991,
2 Chapter 176, Section 6, as amended) is amended to read:

3 "7-20C-6. COLLECTION BY DEPARTMENT--TRANSFER OF
4 PROCEEDS--DEDUCTIONS.--

5 A. The department shall collect the local
6 hospital gross receipts tax in the same manner and at the
7 same time it collects the state gross receipts tax. The
8 department shall collect the local hospital compensating tax
9 in the same manner and at the same time it collects the
10 compensating tax.

11 B. The department shall withhold an
12 administrative fee pursuant to Section 7-1-6.41 NMSA 1978.
13 The department shall transfer to each county for which it is
14 collecting [~~such~~] a tax pursuant to the Local Hospital Gross
15 Receipts Tax Act the amount of the tax collected less the
16 administrative fee withheld and less any disbursements for
17 tax credits, refunds and the payment of interest applicable
18 to the tax. Transfer of the tax to a county shall be made
19 within the month following the month in which the tax is
20 collected."

21 Section 21. A new section of the County Local Option
22 Gross Receipts Taxes Act is enacted to read:

23 "[NEW MATERIAL] MATCHING LOCAL OPTION COMPENSATING
24 TAX.--

25 A. Any ordinance imposing, increasing or

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1 repealing a local option gross receipts tax authorized by the
2 County Local Option Gross Receipts Taxes Act to be imposed on
3 a countywide basis shall also impose, increase or repeal a
4 tax for the privilege of using property in the county if the
5 use of the property is subject to the compensating tax. The
6 rate of county tax on use imposed, increased or repealed
7 shall be the same as the rate of the local option gross
8 receipts tax imposed, increased or repealed. For an election
9 for the approval of the imposition, increase or repeal of a
10 tax authorized to be imposed pursuant to the County Local
11 Option Gross Receipts Taxes Act, the ballot shall clearly
12 indicate that the question concerns the simultaneous
13 imposition, increase or repeal of both a municipal local
14 option gross receipts tax and a municipal local option
15 compensating tax.

16 B. Any ordinance imposing, increasing or
17 repealing a local option gross receipts tax authorized by the
18 County Local Option Gross Receipts Taxes Act to be imposed
19 only in the county area shall also impose, increase or repeal
20 a tax for the privilege of using property in the county area.
21 The rate of county area tax on use imposed, increased or
22 repealed shall be the same as the rate of the local option
23 gross receipts tax imposed, increased or repealed. For an
24 election for the approval of the imposition, increase or
25 repeal of a tax authorized to be imposed pursuant to the

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1 County Local Option Gross Receipts Taxes Act, the ballot
 2 shall clearly indicate that the question concerns the
 3 simultaneous imposition, increase or repeal of both a local
 4 option gross receipts tax and a local option compensating
 5 tax.

6 C. If, on July 1, 2007, a county has in effect a
 7 local option gross receipts tax authorized to be imposed on a
 8 countywide basis, a county tax on use of property in the
 9 county is hereby imposed at the same rate, effective July 1,
 10 2007. If, on July 1, 2007, a county has in effect a local
 11 option gross receipts tax authorized to be imposed only in
 12 the county area, a county tax on use of property in the
 13 county area is hereby imposed at the same rate, effective
 14 July 1, 2007.

15 D. The county taxes on use authorized or imposed
 16 by this section may be referred to generally as "county local
 17 option compensating taxes". Each tax may be referred to
 18 individually by reference to the local option gross receipts
 19 tax with which it is associated."

20 Section 22. A new section of the County Local Option
 21 Gross Receipts Taxes Act, Section 7-20E-5.1 NMSA 1978, is
 22 enacted to read:

23 "7-20E-5.1. [NEW MATERIAL] EXEMPTION--COUNTY LOCAL
 24 OPTION COMPENSATING TAXES.--

25 A. Exempted from county local option compensating

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1 taxes is the use of any tangible personal property that:

2 (1) is subject to depreciation for federal
3 income tax purposes; and

4 (2) at the time of acquisition or
5 introduction into New Mexico, could not be obtained from
6 sources within New Mexico.

7 B. The department, by regulation or instruction,
8 may prescribe one or more methods by which the user of the
9 property may certify that the property meets the conditions
10 of Paragraph (2) of Subsection A of this section."

11 Section 23. Section 7-20E-7 NMSA 1978 (being Laws 1993,
12 Chapter 354, Section 7, as amended) is amended to read:

13 "7-20E-7. COLLECTION BY DEPARTMENT--TRANSFER OF
14 PROCEEDS--DEDUCTIONS.--

15 A. The department shall collect each county local
16 option gross receipts tax imposed pursuant to the provisions
17 of the County Local Option Gross Receipts Taxes Act in the
18 same manner and at the same time it collects the state gross
19 receipts tax. The department shall collect each county local
20 option compensating tax imposed pursuant to the provisions of
21 the County Local Option Gross Receipts Taxes Act in the same
22 manner and at the same time it collects the compensating tax.

23 B. The department shall withhold an
24 administrative fee pursuant to Section [~~1 of this 1997 act~~]
25 7-1-6.41 NMSA 1978. The department shall transfer to each

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1 county for which it is collecting a tax pursuant to the
 2 provisions of the County Local Option Gross Receipts Taxes
 3 Act the amount of each tax collected for that county less the
 4 administrative fee withheld and less any disbursements for
 5 tax credits, refunds and the payment of interest applicable
 6 to the tax. The transfer [~~to the county~~] shall be made
 7 within the month following the month in which the tax is
 8 collected."

9 Section 24. Section 7-20F-3 NMSA 1978 (being Laws 1993,
 10 Chapter 303, Section 3, as amended) is amended to read:

11 "7-20F-3. COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS
 12 TAX AND COUNTY CORRECTIONAL FACILITY COMPENSATING
 13 TAX--AUTHORITY TO IMPOSE--RATE--ORDINANCE REQUIREMENTS--
 14 REFERENDUM.--

15 A. The majority of the members elected to the
 16 county board may enact an ordinance imposing on a countywide
 17 basis an excise tax not to exceed a rate of one-eighth
 18 percent of the gross receipts of any person engaging in
 19 business in the county, including all municipalities within
 20 the county.

21 B. The tax imposed pursuant to Subsection A of
 22 this section may be referred to as the "county correctional
 23 facility gross receipts tax".

24 C. An ordinance imposing a county correctional
 25 facility gross receipts tax shall also impose a tax on the

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1 use of property in the county if the use of the property is
2 subject to the compensating tax. This tax may be referred to
3 as the "county correctional facility compensating tax". The
4 rate of the county correctional facility compensating tax
5 imposed shall be the same as the rate of the county
6 correctional facility gross receipts tax imposed. For an
7 election for the approval of the imposition, increase or
8 repeal of a tax authorized to be imposed pursuant to the
9 County Correctional Facility Gross Receipts Tax Act, the
10 ballot shall clearly indicate that the question concerns the
11 simultaneous imposition, increase or repeal of both a county
12 correctional facility gross receipts tax and a county
13 correctional facility compensating tax. If, on July 1, 2007,
14 a county has in effect a county correctional facility gross
15 receipts tax, a county correctional facility compensating tax
16 is hereby imposed at the same rate, effective July 1, 2007.

17 [~~G.~~] D. Any ordinance imposing a county
18 correctional facility gross receipts tax and county
19 correctional facility compensating tax pursuant to this
20 section shall:

21 (1) impose the [~~tax~~] taxes in any number of
22 increments of one-sixteenth percent not to exceed an
23 aggregate amount of one-eighth percent; provided that the
24 rates of the two taxes are the same;

25 (2) specify that the imposition of the [~~tax~~]

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underscored material = new
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1 taxes will begin on either July 1 or January 1, whichever
 2 occurs first after the expiration of at least three months
 3 from the date that the department is notified personally or
 4 by mail by the county of adoption of the ordinance; and

5 (3) dedicate the revenue from the county
 6 correctional facility gross receipts tax and county
 7 correctional facility compensating tax:

8 (a) for the purpose of operating,
 9 maintaining, constructing, purchasing, furnishing, equipping,
 10 rehabilitating, expanding or improving a judicial-
 11 correctional or a county correctional facility or the grounds
 12 of a judicial-correctional or county correctional facility,
 13 including acquiring and improving parking lots, landscaping
 14 or any combination of the foregoing;

15 (b) for the purpose of transporting or
 16 extraditing prisoners; or

17 (c) to payment of principal and
 18 interest on revenue bonds or refunding bonds issued pursuant
 19 to the provisions of the County Correctional Facility Gross
 20 Receipts Tax Act.

21 [~~D.~~] E. An ordinance imposing a county
 22 correctional facility gross receipts tax and county
 23 correctional facility compensating tax pursuant to this
 24 section shall be subject to optional referendum selection by
 25 the governing body, as provided in Subsection A of Section

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1 7-20E-3 NMSA 1978.

2 ~~[E.]~~ F. If the county has pledged the revenue
3 from imposition of the county correctional facilities gross
4 receipts tax and county correctional facility compensating
5 tax to the repayment of bonds or other indebtedness, revenue
6 produced by the imposition of a county correctional facility
7 gross receipts tax and county correctional facility
8 compensating tax that is in excess of the annual principal
9 and interest due on bonds secured by a pledge of the county
10 correctional facility gross receipts tax and county
11 correctional facility compensating tax may be accumulated in
12 a debt service reserve account until an amount equal to the
13 maximum amount permitted pursuant to the provisions of the
14 United States treasury regulations is accumulated in the debt
15 service reserve account. After the debt service reserve
16 account requirements have been met, the excess revenue shall
17 be accumulated in an extraordinary mandatory redemption fund
18 and annually used to redeem the bonds prior to their stated
19 maturity date.

20 ~~[F.]~~ G. If the county has pledged the revenue
21 from imposition of the county correctional [~~facilities~~]
22 facility gross receipts tax and county correctional facility
23 compensating tax to the repayment of bonds or other
24 indebtedness, when all outstanding bonds have been paid,
25 whether from the debt service reserve, the redemption fund or

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underscoring material = new
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1 maturity, the ordinance shall be repealed if the county
 2 correctional facility gross receipts tax revenue [~~is~~] and
 3 county correctional facility compensating tax revenue are no
 4 longer required for the purposes for which [~~it~~] they may be
 5 used pursuant to the provisions of the County Correctional
 6 Facility Gross Receipts Tax Act.

7 [~~G.~~] H. The repeal of an ordinance imposing a
 8 county correctional facility gross receipts tax and county
 9 correctional facility compensating tax shall state that the
 10 repeal shall be effective on January 1 or July 1, whichever
 11 occurs first following the date the department is notified
 12 personally or by mail by the county of the repeal."

13 Section 25. Section 7-20F-5 NMSA 1978 (being Laws 1993,
 14 Chapter 303, Section 5) is amended to read:

15 "7-20F-5. COLLECTION BY DEPARTMENT--TRANSFER OF
 16 PROCEEDS--DEDUCTIONS.--

17 A. The department shall collect the county
 18 correctional facility gross receipts tax in the same manner
 19 and at the same time it collects the state gross receipts
 20 tax. The department shall collect the county correctional
 21 facility compensating tax in the same manner and at the same
 22 time it collects the compensating tax.

23 B. The department shall remit to each county for
 24 which it is collecting a [~~county correctional facility gross~~
 25 ~~receipts~~] tax pursuant to the County Correctional Facility

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1 Gross Receipts Tax Act the amount of the tax collected less
2 any disbursement for tax credits, refunds and the payment of
3 interest applicable to the [~~county correctional facility~~
4 ~~gross receipts~~] tax. Transfer of the tax to a county shall
5 be made within the month following the month in which the tax
6 is collected."

7 Section 26. A new section of the County Correctional
8 Facility Gross Receipts Tax Act, Section 7-20F-6.1 NMSA 1978,
9 is enacted to read:

10 "7-20F-6.1. [NEW MATERIAL] EXEMPTION--COUNTY
11 CORRECTIONAL FACILITY COMPENSATING TAX.--

12 A. Exempted from county correctional facility
13 compensating tax is the use of any tangible personal property
14 that:

15 (1) is subject to depreciation for federal
16 income tax purposes; and

17 (2) at the time of acquisition or
18 introduction into New Mexico, could not be obtained from
19 sources within New Mexico.

20 B. The department, by regulation or instruction,
21 may prescribe one or more methods by which the user of the
22 property may certify that the property meets the conditions
23 of Paragraph (2) of Subsection A of this section."

24 Section 27. Section 7-20F-7 NMSA 1978 (being Laws 1993,
25 Chapter 303, Section 7) is amended to read:

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1 "7-20F-7. REVENUE BONDS--AUTHORITY TO ISSUE--ORDINANCE
2 AUTHORIZING ISSUE--PLEDGE OF REVENUE.--

3 A. In addition to any other law authorizing a
4 county to issue revenue bonds, a county may issue revenue
5 bonds pursuant to the County Correctional Facility Gross
6 Receipts Tax Act for the purposes specified in that act.
7 Revenue bonds issued pursuant to the County Correctional
8 Facility Gross Receipts Tax Act may be referred to as "county
9 correctional facility gross receipts tax revenue bonds".

10 B. A county board, by majority vote, may adopt an
11 ordinance providing for issuance of revenue bonds pursuant to
12 the provisions of the County Correctional Facility Gross
13 Receipts Tax Act, the principal and interest of which shall
14 be paid from the revenue derived by the county from the
15 county correctional facility gross receipts tax, the county
16 correctional facility compensating tax and any other revenue
17 that the county may dedicate to the payment of the revenue
18 bonds.

19 C. Revenue bonds or refunding revenue bonds
20 issued as authorized pursuant to the County Correctional
21 Facility Gross Receipts Tax Act are:

- 22 (1) not general obligations of the county;
23 and
24 (2) collectible only from the county
25 correctional facility gross receipts tax, the county

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1 correctional facility compensating tax and, if authorized,
2 other properly pledged revenues, and each bond shall be
3 payable solely from the properly pledged revenues and the
4 bondholders shall not look to any other county fund for the
5 payment of the interest and principal of the bonds."

6 Section 28. APPLICABILITY.--The provisions of this act
7 are applicable to use of tangible personal property on or
8 after July 1, 2007.

9 Section 29. EFFECTIVE DATE.--The effective date of the
10 provisions of this act is July 1, 2007.